

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
KINGVISION PAY-PER-VIEW CORP., LTD.,)	
)	
Plaintiff,)	CIVIL ACTION
)	NO.: 05-10264-WGY
v.)	
)	
ELYNOR WALCOTT and WALLY’S CAFE, INC.))	
D/B/A WALLY’S CAFE,)	
)	
Defendants.)	
_____)	

DEFENDANTS’ ANSWER,
AFFIRMATIVE DEFENSES AND JURY DEMAND

Defendants Elynor Walcott (“Ms. Walcott) and Wally’s Cafe, Inc. (“Wally’s Cafe”) for their Answer to the Complaint of the plaintiff, Kingvision Pay-Per-View Corp., LTD., state as follows in response to each corresponding paragraph therein:

1. This paragraph asserts a legal conclusion to which no response is required.
2. This paragraph asserts a legal conclusion to which no response is required.
3. This paragraph asserts a legal conclusion to which no response is required.
4. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 4 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.
5. Denied.
6. Admitted.

7. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 7 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

8. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 8 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

9. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 9 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

10. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 10 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

11. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 11 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

12. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 12 of the

Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

13. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 13 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

14. Denied.

15. Denied.

16. Denied.

17. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 17 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

18. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 18 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

19. In response to the allegations contained in paragraph 19 of the Complaint, the defendants repeat each of their responses to paragraphs 1 through 18 as though separately set forth herein.

20. This paragraph asserts a legal conclusion to which no response is required.

21. Defendants deny that they violated any rule, regulation, statute, ordinance or other law, including, but not limited to, those enumerated in this paragraph.

22. This paragraph asserts a legal conclusion to which no response is required.

23. Denied.

24. Denied.

25. Denied.

26. In response to the allegations contained in paragraph 26 of the Complaint, the defendants repeat each of their responses in paragraphs 1 through 25 as though separately set forth herein.

27. This paragraph asserts a legal conclusion to which no response is required.

28. Defendants deny that they violated any rule, regulation, statute, ordinance or other law, including, but not limited to, those enumerated in this paragraph.

29. This paragraph asserts a legal conclusion to which no response is required.

30. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 30 of the Complaint, and, therefore, deny said allegations and call upon the plaintiff to prove the same.

31. Denied.

32. Denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Complaint fails to state a claim upon which relief can be granted.

Second Affirmative Defense

The Plaintiff's claims are barred due to insufficiency of process.

Third Affirmative Defense

The Plaintiff's claims are barred due to insufficiency of service of process.

Fourth Affirmative Defense

The Plaintiff is barred from asserting its claims under the doctrine of waiver.

Fifth Affirmative Defense

The Plaintiff is barred from asserting its claims under the doctrine of laches.

Sixth Affirmative Defense

To the extent the plaintiff was injured or damaged as alleged in the Complaint, any such injury or damage was not caused by, or the result of, conduct of the defendants and, therefore, the defendants are not liable.

Seventh Affirmative Defense

To the extent the plaintiff was injured or damaged as alleged in the Complaint, any such injury or damage was caused by, or the result of, actions of persons or entities over which the defendants had no control and for whose conduct the defendants are not legally responsible.

Eighth Affirmative Defense

Defendant Wally's Cafe, Inc., has been misnamed and the Complaint must, therefore, be dismissed as to Wally's Café, Inc. pursuant to Mass.R.Civ.P. 12(b)(8).

WHEREFORE, defendants Elynor Walcott and Wally's Cafe, Inc. pray that the Court enter judgment against the plaintiff, dismiss the Complaint, with prejudice, and award the defendants reasonable costs and attorney's fees.

DEMAND FOR JURY TRIAL

Defendants Elynor Walcott and Wally's Cafe, Inc. demand a trial by jury of all issues so triable.

Defendants,

ELYNOR WALCOTT and
WALLY'S CAFE, INC.,

By their attorney,

/s/ Kimberly Y. Jones
Kimberly Y. Jones (BBO# 632663)
Looney & Grossman LLP
101 Arch Street
Boston, MA 02110
(617) 951-2800

June 7, 2004

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2005, I served a true copy of the foregoing *Defendants' Answer, Affirmative Defenses and Jury Demand* upon all parties hereto by electronically, via facsimile, or by mailing a copy thereof, properly addressed to:

Gary D. Berkowitz, Esq.
One James Street
Providence, RI 02903

/s/ Kimberly Y. Jones

Kimberly Y. Jones